

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No. 1:17-cv-00854-TDS-LPA

REBECCA KOVALICH and SUZANNE)
NAGELSKI,)

Plaintiffs,)

v.)

PREFERRED PAIN MANAGEMENT &)
SPINE CARE, P.A., DR. DAVID SPIVEY,)
individually, and SHERRY SPIVEY,)
individually.)

Defendants.)

Exhibit 32

CONFIDENTIAL**CHARGE OF DISCRIMINATION**

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA☒ EEOC**435-2012-00740**

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Home Phone (Incl. Area Code)

Date of Birth

1986

Street Address

City, State and ZIP Code

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

No. Employees, Members

Phone No. (Include Area Code)

PREFERRED PAIN MANAGEMENT**15 - 100****(336) 760-0706**

Street Address

City, State and ZIP Code

245 Charlois Boulevard, Suite C, Winston Salem, NC 27103

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

DATE(S) DISCRIMINATION TOOK PLACE
Earliest Latest

☐ RACE ☐ COLOR ☒ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☒ RETALIATION ☐ AGE ☐ DISABILITY ☐ GENETIC INFORMATION
☐ OTHER (Specify)

05-29-2012☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I was employed by the above medical office in February 2011 as a Medical Assistant. Beginning in approximately September 2011, [REDACTED] (male), Physician's Assistant, began subjecting me to a sexually hostile work environment. He began making sexual comments and gestures toward me. He frequently commented on how I looked and was very vocal about his desire to "be with" me. He asked me "is this how big you want it", referring to his penis. He showed me and another female employee photographs of sexual positions that were on his cell phone and asked us how we liked doing it. Additionally, he sent me an inappropriate text message asking me to run off with him. He regularly asked me to go out with him. He often told me what color panties he thought I had on. He has told me he wanted me. He frequently followed me around the office, causing me a lot of distress. He questioned me about me and my husband's relationship. I informed him on a regular basis that I was not interested in him. On some occasions when I told him I was not interested in him and didn't have feelings for him, he would get angry, throw forms, cuss, slam doors, and not communicate with me regarding work-related matters.

I had hoped the offensive behavior by [REDACTED] would cease, but after it continued for several months, in December 2011, I called my Supervisor, Vickie Swicegood, and reported the sexual harassment. She informed me that she would contact Human Resources and Dr. Spivey, the doctor in charge. I was

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.
SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Date

Charging Party Signature

DEFENDANTS006374

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: _____ Agency(ies) Charge No(s): _____

☐ FEPA
☒ EEOC

435-2012-00740

and EEOC

State or local Agency, if any

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

subsequently contacted by Dr. Spivey and he confirmed that he and Human Resources were aware of my complaint. I tried to explain further details of the incidents involving [REDACTED] but Dr. Spivey refused to hear it. He advised me that he would hate to lose [REDACTED] or me. He also said neither I nor [REDACTED] would be discharged. He asked me to relocate to the Greensboro office. I refused due to the distance. I was told that my allegations were taken seriously. I was also informed that [REDACTED] would work on one side of the building and I on the other. However, we continued to work on the same side of the building.

The medical office did not have a sexual harassment policy, to my knowledge. In April 2012, the company had an attorney to conduct sexual harassment training for employees.

Subsequent to my complaint about the sexual harassment, the work environment became even more hostile. I was nitpicked about my job performance and on two occasions, I heard Dr. Spivey tell Ms. Swicegood to document those things in my file. I believe I received unjustified write ups. On or about May 10, 2012, [REDACTED] shoved me slightly with his elbow as he walked past me. On or about May 17, I heard him refer to me as a dumb ass. I reported these two incidents to Ms. Swicegood on May 17, 2012. She informed me that she would document them. I heard nothing further.

On May 29, 2012, I was discharged, allegedly for not showing up for work on May 25, 2012; however, I had previously been told that it would be ok for me to be off that day.

I believe that I have been discriminated against in violation of Title VII of the Civil Rights Act of 1964, as amended, due to my sex (female) and in retaliation for complaining about the sexual harassment to which I was subjected.

2012 JUL 26 PM 12:00
RECEIVED
U.S. DEPT. OF JUSTICE
EEOC
7

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY – When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.
SIGNATURE OF COMPLAINANT

7-26-12

Date

Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

DEFENDANTS006375